

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ERNESTO GARCIA,	:	
	:	
Plaintiff,	:	
	:	22 Civ. 9172 (LGS)
-against-	:	
	:	<u>ORDER</u>
2390 C LLC, ET AL.,	:	
Defendants.	:	
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LORNA G. SCHOFIELD, District Judge:

WHEREAS, the Order, dated November 16, 2022, required the parties to file a proposed joint letter and case management plan no later than seven days before the initial pretrial conference;

WHEREAS, the initial pretrial conference originally was scheduled for January 4, 2023;

WHEREAS, the parties failed to file the joint letter or proposed case management plan;

WHEREAS, the Order, dated January 5, 2023, adjourned the initial pretrial conference to February 8, 2023, and again required the parties to file a proposed joint letter and case management plan no later than seven days before that conference;

WHEREAS, at least one Defendant was served on October 28, 2022, though Plaintiff's purported proof of service as to the other Defendant is defective;

WHEREAS, at least the Defendant that was properly served was required to respond to the Complaint by November 18, 2022;

WHEREAS, neither Defendant has appeared in this case or responded to the Complaint;

WHEREAS, the January 5, 2023, Order also directed Plaintiff, if not in contact with Defendants, to file a proposed order to show cause for default judgment by January 23, 2023;

WHEREAS, Plaintiff did not timely file a proposed order to show cause for default judgment, and has since belatedly filed a proposed clerk's certificate of default that was rejected

because of the defective proof of service of one of the Defendants;

WHEREAS, the parties have now failed for the second time to file the joint letter or proposed case management plan. It is hereby

ORDERED that, if Plaintiff still is not in touch with Defendants, and if Plaintiff has in fact properly served both Defendants, Plaintiff shall promptly correct the deficiencies in the proof of service and shall file a proposed order to show cause for default, in full compliance with the Court's Individual Rules, by **February 8, 2023**. A proposed order to show cause for default must be accompanied by an executed Clerk's Certificate of Default, so Plaintiff must complete the process of obtaining a Clerk's Certificate of Default in advance of February 8, 2023. It is further

ORDERED that, if Plaintiff has not yet served both Defendants, Plaintiff shall serve the remaining Defendant and file proof of service and a status letter by **February 8, 2023**, proposing next steps, including a further adjournment of the initial pretrial conference. It is further

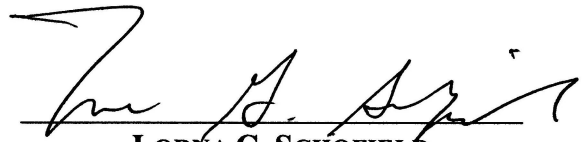
ORDERED that, if Plaintiff is in communication with Defendant, the parties shall file the joint letter and proposed case management plan as soon as possible and no later than **March 1, 2023**. If Defendant refuses to cooperate, Plaintiff shall prepare and file them. It is further

ORDERED that, by **February 8, 2023**, Plaintiff shall explain, in one of the submissions required above or in a separate letter, why Plaintiff has already failed to comply with Court Orders and deadlines on at least three occasions in this case. It is further

ORDERED that the initial pretrial conference scheduled for February 8, 2023, is adjourned to **March 8, 2023, at 4:20 P.M.**

Failure by Plaintiff to comply with any additional Orders may result in sanctions, including but not necessarily limited to dismissal for failure to prosecute or monetary penalties.

Dated: February 2, 2023
New York, New York


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE